

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Insight Technology, Inc.

v.

Civil No. 04-cv-74-JD

SureFire, LLC

O R D E R

Insight Technology, Inc. filed a motion for partial summary judgment on its claims that SureFire, LLC is infringing Insight's United States Patent Number 6,574,901 ("the '901 patent"). SureFire moved for summary judgment on its claims that the asserted claims of the '901 patent are invalid or obvious. SureFire moved for oral argument on its motion. Insight and SureFire each moved for leave to file supplemental briefing.

In response to the motions for summary judgment, the parties each filed a motion to strike certain evidence submitted by the other. The court granted part of each motion. See Order, doc. no. 137. The parties' motions for summary judgment and their objections to summary judgment rely, in part, on evidence that has now been stricken from the record. The court will not screen the motions to exclude stricken evidence or determine whether competent evidence remains to support them, which is an undertaking best left to counsel who are familiar with the claims.

Conclusion

For the foregoing reasons, the parties' motions for summary judgment (documents no. 96 and 97) are denied without prejudice to refile redacted versions of the same motions, if appropriate, omitting the evidence that has been stricken from the record and the arguments that depend upon that evidence. SureFire's motion for oral argument (document no. 98) is denied as moot. The parties' motions for leave to file supplemental briefing (documents no. 124 and 127) are also denied as moot.

The parties shall file redacted versions of their motions, if appropriate, on or before **February 22, 2008**. The usual rules will apply thereafter to filing responses.

As the court has previously advised, the parties should take this opportunity to assess the strength of their claims and defenses and to discuss the possibility of settlement before additional resources are expended in this case.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

January 30, 2008

cc: Thomas A. Brown, Esquire
Laura L. Carroll, Esquire
Gary A. Clark, Esquire
Jonathan Hangartner, Esquire
Lawrence K. Kolodney, Esquire
Diane A.D. Noel, Esquire
Jennifer Rood, Esquire
Jonathan M. Shirley, Esquire
Craig R. Smith, Esquire
Daniel E. Will, Esquire